

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA
NORTHWESTERN DIVISION**

United States of America,

Plaintiff,

vs.

Robert F. Lippman,

Defendant.

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ORDER

Case No. 4:02-cr-082

Before the Court is the Defendant's pro se pleading filed on November 4, 2008, that will be treated as a motion for reconsideration. See Docket No. 71. On September 4, 2008, the defendant, Robert Lippman, filed a pro se pleading that was treated as a motion to vacate. See Docket No. 69. In the motion to vacate, Lippman moved the Court to overturn his conviction and mentioned that "he has made enough of a showing for the appointment of an experienced writ attorney." See Docket No. 69. The Court denied the motion to vacate, finding that Lippman's arguments were without merit.

In the motion for reconsideration now before the Court, Lippman contends that his previous filing was not intended to be a motion to vacate. Instead, Lippman contends that it was only intended to be a motion for the appointment of counsel. Further, Lippman expresses concern that he will be barred from "future filing when he's never had a full and fair chance of briefing his claim." See Docket No. 71.

Having carefully reviewed the record, the Court finds no basis to reverse its previous order. The original pleading at issue (Docket No. 69) was properly treated as a motion to vacate. Lippman's arguments were without merit and, therefore, the Court found no reason to vacate his conviction. Because Lippman's arguments were without merit, any motion for appointment of

counsel contained within the motion to vacate was moot. Consequently, the Court implicitly denied as moot any motion for appointment of counsel when it denied the motion to vacate. To alleviate Lippman's concerns, there is nothing that prevents Lippman from filing additional motions with the Court. The Court **DENIES** the motion for reconsideration (Docket No. 71).

IT IS SO ORDERED.

Dated this 10th day of November, 2008.

/s/ Daniel L. Hovland

Daniel L. Hovland, Chief Judge
United States District Court